MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY,** on March 30, 2005 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Steven Gallus (D)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Don Ryan (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 2, 3/24/2005
Executive Action: HB 2

HEARING ON HB 2

Opening Statement by Sponsor:

REP. JOHN WITT (R), HD 28, Carter, opened the hearing on **HB 2**, General appropriations act. **REP. WITT** thanked the Subcommittees for working hard to arrive at a bill they could all live with, but he stated he was not real happy with this bill. HB 2 appropriations for the 2007 biennium through House floor action were $2.6 billion general fund, $1.1 billion state special revenue, $3.2 billion federal funds, and $7.3 billion total funds. HB 2 provides a $295 million general fund increase or 12.8% for the biennium and 6.4% per year, an increase of $154 million in state special revenue or 27.8% for the biennium and 15.5% per year, and $310 million federal funds increase or 10.7% for the biennium and $5.4% per year. This was a total fund increase of $759 million or 12.2% for the biennium and 6.1% per year. For general government the total general fund was $184 million, an increase of $33 million, which was $11 million under the Executive budget. For Human Services the total was $624 million, an increase of $127 million, which was $10 million over the Executive budget. In Natural Resources there was $60 million total general fund, which was a $34 million increase and $1.2 million over the Executive budget. In Corrections and Public Safety, total general fund was $293 million, an increase of $34 million and $1 million over the Executive budget. For Education, there was $1.3 billion budgeted for an increase of $109 million or $15 million over the Governor's budget. The House reduced HB 2 appropriations by $56.1 million. This included $16.4 million general fund and $39.7 million in state special revenue. The most significant reductions were to eliminate contingency appropriations in natural resource agencies and to reduce the appropriations in the production of new vehicle license plates. The House Appropriations Committee reduced the general fund appropriation by $35,000 and reduced state special revenue appropriations by $479,000. The most significant adjustments were a general fund decrease of $2.1 million for secure facility program expansion and $1.9 million increase for distribution to schools. He advised the spending cap was exceeded by $44 million.

Overview:

Terry Johnson, Legislative Fiscal Division, handed out two documents to the committee. The documents included pertinent information from the General Fund Status dated 3/29/05 and an update of the General Fund Status Sheet.

EXHIBIT(fcs67a01)

EXHIBIT(fcs67a02)

Mr. Johnson advised, if all the legislation listed on the general fund status sheet passed, the general fund balance would be $94.5 billion at the end of the 2007 biennium. Before Legislative action there was a $507.5 million balance, which was the 2004 base plus the statewide present law adjustments. From that they took into account the revenue estimates as adopted by the Revenue and Transportation Committee on November 16, 2004. Revenue adjustments are $27 million if all the revenue bills are enacted. Part of that includes revenue adjustments adopted by the House Taxation Committee and approved by House floor action of about $6.5 million. The second component of the $27 million was $20.5 million in taxation bills that have had positive executive action so far to date. Appropriations adjustments were a negative $44 million. That was comprised of 14 pieces of legislation; the first and foremost was HB 2. That amounted to $301.9 million and was an increase in HB 2 authority. Also included was the $55.7 million in HB 745, which is the supplemental bill. HB 447 was the employee pay increase of $37.6 million, which has been signed by the Governor. The third large component was $29.3 million for HB 5, the Long Range Building cash portion. There were some smaller bills that made up the rest of the $440 million. Without SB 272, SB 303, and SB 513, the general fund status would be $56.7 million. The structural balance in the general fund account is the measurement of ongoing revenues with ongoing disbursements. Anticipated revenues for the 2007 biennium were based on HJR 2 revenue estimates and included the impacts of revenue legislation that had positive executive action. Anticipated disbursements reflect HB 2 and include all the other pieces of legislation. One-time only disbursements in HB 2, HB 5, and HB 9 were $78 million. Based on those adjustments, the anticipated structural balance was about $22.5 million. Without SB 272, SB 303, and SB 513 that would be a negative $15.3. The expenditure limitation deals with general fund, state special revenue, and the cash portion of the capitol projects fund. The current 2007 biennium budget after legislative action was $4.445 billion. The expenditure limitation compares that to the previous biennium, which was $4.064 billion, for the 2005 biennium appropriation base. The allowable growth was $346.8 million, which was based on a rolling average of personal income numbers of 8.53 percent. The maximum budget for those three fund types would be $4.410 billion, so the current budget was $44.2 million over the cap. Without SB 272, SB 303, and SB 513, the number would be the same. Those were revenue bills and had nothing to do with appropriations. He noted that there were a large number of bills on the general fund status sheet. These were more bills than he could recall since he had been doing the general fund status. If they only used bills that have been signed, transmitted to the Governor, or enrolled, plus HB 2 and the long-range planning bills, the general fund balance would be $73.2 million. That is about $6.8 million below the preferred ending fund balance of $80 million. The structural balance would be a negative $5.4 million, and spending would be $1.5 million above the expenditure limitation cap. The options were to look at spending priorities in HB 2 and the cat and dog bills.

Questions from Committee Members and Responses:

SEN. TRUDY SCHMIDT inquired about SB 513. **Mr. Johnson** advised SB 272, SB 303, and SB 513, were significant pieces of revenue legislation that have a significant impact on the general fund status and the structural balance. SB 513 is **SEN. JIM ELLIOTT'S** bill that provides some tools for revenue enforcement by the Department of Revenue. SB 513 is estimated to increase general fund revenues by about $18.3 million over the 2007 biennium.

SEN. JOHN COBB asked about the extra $15 million in the revenue estimate. **Mr. Johnson** advised that the Senate Taxation Committee has a hearing on HJ2, and there was an indication they might take executive action sometime during the week. His office and the Office of Budget and Program Planning recommended that the Senate Taxation Committee adjust the 2005 individual income tax upward by $15 million, but that is not included in this general fund status at this point in time. **SEN. COBB** said balances would be $15 million higher if that was taken into account, and **Mr. Johnson** indicated, yes. **SEN. COBB** asked about the structural balance. **Mr. Johnson** advised if the Senate Taxation Committee adopts the recommendation, it will not impact the structural balance. **SEN. COBB** wondered about new revenue estimates. **Mr. Johnson** indicated the primary focus is on individual income tax and on corporation income tax to some degree. Collection activity for the last three months has consistently been above last year's level in excess of $50 million. That is the basis for their recommendation to Senate Taxation. Even if the Senate Taxation Committee adopts the additional $15 million, that will put the revenue estimate at about $620 million for FY 2005. Based on what they are currently seeing, there is the potential that they could see close to $650 million at the end of 2005. He indicated the trends are very favorable.

{Tape: 1; Side: B}

SEN. COBB inquired if that would add $15 million more to the ending fund balance, and **Mr. Johnson** replied, yes. **SEN. COBB** said an $88 million ending fund balance would be close to what everybody wants. **Mr. Johnson** replied, yes.

SEN. BOB HAWKS asked for a further explanation on the expenditure limitation position. **Mr. Johnson** responded, in terms of the expenditure limitation calculation as defined in statute, there are three fund types that are required to be included. These include the general fund and state special revenue, such as the highway program or Fish, Wildlife, and Parks. The third is the cash portion of the capital projects.

Clayton Schenck, Legislative Fiscal Analyst, explained the HB 2 narrative.

EXHIBIT(fcs67a03)

The bill reflected legislative action to date. The overview was a summary of HB 2, what it contains, and what action had been taken to date on the bill. The bill represents approximately 85 percent of all general fund. With the pay plan, it is well over 90 percent of all general fund. Pie charts and bar graphs summarized HB 2 by general program area and fund type. The bar graphs showed the amount of increase in the 2007 biennium over the current 2005 biennium. He emphasized this was for HB 2 only, and did not include the pay plan or other cat and dog bills. He noted these comparisons are on a biennium to biennium basis. The percent of increase is the best way to look at it from a comparative point. There is $2.6 billion in general fund in this budget, and $7 billion in total funds. That represents almost a $300 million general fund increase, or about 6.4 percent per year. There is a $759 million total fund increase over the last biennium, and that is about 6.1 percent per year. K-12 and Higher Education together are 55 percent of the total state budget. Human Services is almost a fourth of the total budget, and Corrections is almost 10 percent. Those categories together represent almost 88 percent of these total budgets. Human Services represented almost a third of the total increase, primarily dealing with changes in state matching rate for Medicaid and caseload increases. In Corrections, there was a $25 million increase due to growth in the secure care population and other issues. Higher Education had a $26 million increase, and public schools had another $83 million due to the addition of three-year averaging and the change in the ANB formula, as well as special ed, school facility reimbursement, and Indian Education for All. All other increases were almost $59 million, and represented all other agencies. The largest chunk of that was district court expenses, the development of a new property tax system and replacement of POINTS, as well as development of an emergency telecommunications infrastructure. The significant increases in total funds reflected additional state special and federal funding for human services programs and highways funding, as well as for K-12 education and environmental functions. There are three major funding sources for HB 2. The general fund is 37 percent of total funding. State special revenue and general fund together are $3.7 million and that is the majority of what is considered in the spending cap. Federal funds are almost 46 percent of this budget, representing almost $3.2 billion of the total. This equals 41 percent of the total HB 2 increase. Human services accounts for $257.6 million or about 83 percent of the total increase. State special revenue funds increased by $154.4 million, or 15.5 percent. Three program areas account for those increases including transportation, human services, and natural resource programs. After the bill came out of subcommittee, House amendments reduced appropriations by a net of $56 million. That included $16 million in general fund and another $40 million in state special revenue. Of those, $30.5 million was to eliminate or reduce contingency appropriations, of which almost $27 million were in the natural resource programs. Another $4 million was eliminated in duplicate appropriations in the bill. There were savings of $4.2 million in HB 2 from deferral of the production of new license plates beyond the 2007 biennium. This results in a net loss of general fund due to the loss of revenues from sales. There was a $4.2 million reduction in un-designated appropriation of employment security account funds in the Department of Labor. There was a $2.8 million reduction in funding for school facility payments. Prior to that, House Appropriations action reduced general fund appropriations a net of $35,000 and reduced state special revenue appropriations by $479,000. The biggest items were a general fund decrease of $2.1 million for corrections secure facilities expansions and a $1.9 million increase for distributions to schools. The action of the subcommittees were shown in Figure 9 of the overview. Figure 11 showed a comparison to the Executive Budget, and HB 2 was nearly $16 million over the original Executive Budget submitted in early January. The Office of Public Instruction was $13.8 million higher than the Governor's budget. The Governor has since advocated those increases. The largest increase allowed schools districts to use a higher per student count or the average count for the prior three years in determining Base Aid. Altogether the total increases in OPI bring the total general fund increase over the 2004 base to $84 million for the 2007 biennium. The Department of Public Health and Human Services was $10 million higher than the Executive Budget primarily due to several legislative initiatives for direct care worker wage increases, provider rate increases, and various service eligibility enhancements. The Department of Corrections is only about $0.5 million higher due to several offsetting adjustments. One was adopting a proposal to expand secure care facilities, which would cost more than the original Executive submission. There was also the removal of the new license plate production for this biennium, which requires legislation to put into place. The Department of Justice, Department of Revenue, the Governor's

Office, the Judiciary, and Department of Environmental Quality had significant variances from the Executive budget. He referred to the glossary and index and recommended their use through this process. He noted that **Greg Petesch, Code Commissioner,** submitted a legal review of HB 2 concerning language that may in conflict with substantive law or otherwise inappropriate and indefensible for this bill. He indicated that staff would point out the legal concerns as they proceed through the bill. He asked that amendments be submitted as early as possible.

Questions from Committee:

SEN. COREY STAPLETON wanted to know about the language that was inappropriate and indefensible. **Mr. Schenck** indicated it was specific language in the bill. The Code Commissioner does not speak to the numbers. **SEN. STAPLETON** inquired about the Department of Health and Human Services (DPHHS) and the 19.82 percent increase in spending. He wondered, if they took out the amount attributed to the Medicaid issue, what the percent would be. **Lois Steinbeck, Legislative Fiscal Division** advised if Medicaid is taken out, that accounts for 89 percent. Medicaid matching rate changes and caseload growth count for 89 percent of the total general fund increase. **SEN. STAPLETON** replied the caseload growth is a different issue. **Ms. Steinbeck** indicated match rate growth is 43 percent of that change. **SEN. STAPLETON** asked **Mr. Schenck** about the number of FTE in state government and the growth in the next two years. **Mr. Schenck** said they could get that information. **Taryn Purdy, Legislative Fiscal Division** advised, compared with the FY 2004 base, 106 FTE will be added in 2006 and 92 FTE in 2007. There may be slight changes to that from Governor Schweitzer's budget. The agency with the largest increase is the Department of Transportation due to highway construction. The second largest is Fish, Wildlife, and Parks. **SEN. STAPLETON** asked what the baseline is for the current number of FTE. **Ms. Purdy** replied the base was 11,240 FTE.

SEN. JON TESTER asked about the category of "other". Primarily, the $58.7 million increase is due to district court expenses, the development of the new property tax system, replacement of the POINTS system, and the development of emergency telecommunications infrastructure, which he believed had something to do with the federal government and the security of the Canadian border. He asked how much is being spent on the emergency telecommunications infrastructure. **Mr. Schenck** responded the amount is $3.5 million. **SEN. TESTER** asked about the new property tax system and if that was adopted last session. **Mr. Schenck** answered that is the IRIS system, and referred the question to **Greg DeWitt, Legislative Fiscal Division.** It was originally in the POINTS system, but was not funded last session. It is funded this time at $5.5 million. **SEN. TESTER** wondered if it would make the property tax system more fair, or if it was simply administrative. **Mr. DeWitt** responded that the old system at the Department of Revenue is currently not being supported. This replaces that system so they can administer the coming reappraisal. **SEN. TESTER** asked how much is dedicated to the replacement of the fatal POINTS system. **Mr. DeWitt** replied there will be about $16 million to pay off the loans plus an additional $4 million for the remainder. **SEN. TESTER** figured that would be about $25.5 million to deal with the POINTS debacle. **Mr. DeWitt** replied, yes. **SEN. TESTER** asked about the district court expenses. **Mr. Schenck** advised, in terms of the all other category, the Judicial Branch increase is $13.3 million. **Harry Freeborn, Legislative Fiscal Division**, stated the district court increases by $3.4 million in FY 2006, and $3.9 million in FY 2007. **SEN. TESTER** assumed that is due to district court assumption. **Mr. Freeborn** advised most of the increase is due to the line items. One of the line items is the unfit to proceed costs, which are $2 million for the biennium. That is something the Judiciary did not have to pay for in FY 04. It was part of the FY 05 supplemental.

{Tape: 2; Side: A}

Due to an audit, the Judiciary is now required to pay for that. **SEN. TESTER** asked about the 46 percent increase due to growth in the DPHHS budget and what that was attributed to. **Ms. Steinbeck** explained that 76 percent is for Medicaid caseload growth, the change in the state match rate, as well as subsidized adoption of foster care cases. There will be another three percent related to overtime costs at state institutions, and two percent to pay for the bed tax that was imposed on state institutions; the general fund recoups federal revenue that fully offsets that bed tax amount. There are some service extensions that count for one percent in mental health community services, there is one percent to fund the MIAMI program, there is one percent for the new audit FTE, and there are some meals on wheels and disability services costs that amount to zero percent. **SEN. TESTER** said the DPHHS budget was increased by 89 percent, with 43 percent due to loss of federal dollars and 46 percent due to caseload growth. **Ms. Steinbeck** indicated a big part of that is utilization of services as new medical technology comes on and expansion of drug costs. **SEN. TESTER** asked what the impact would be of zero growth for the biennium. **Ms. Steinbeck** replied that is a difficult question. Medicaid is largely spent in communities around the state supporting hospitals, nursing homes, and doctors. They would have to change the Medicaid program itself. They would have to reduce eligibility, eliminate services, or reduce provider rates. Those cuts would impact on people who currently receive services or the existing providers who receive payment for those services. To the extent providers increase their charity care, costs would be shifted to other payers. To the extent providers were unable to recoup costs, there could be a reduction in medical services available. There are some other alternatives, but whether or not those alternatives would expand to fill the entire gap left by Medicaid reduction would be difficult to tell. An example was pharmacies that run free prescription drug programs for those with low income.

CHAIRMAN COONEY inquired about the bar chart on page 3. Of those increases, he wondered what percentage of those increases for DPHHS would be present law adjustments. **Mr. Schenck** replied new proposals in terms of legislative actions to date were $140 million; present law is $124 million. Just a little less than half of all of these increases are present law and just over half are new proposals. With regard to DPHHS in particular, it is $89 million.

CHAIRMAN COONEY said they would address technical and global amendments. **Ms. Purdy** advised there were no policy issues in the first technical amendment; it was to correct mistakes that were made in HB 2. She noted a mistake on item number three. The first insert should be 86,527 instead of 86,257. Under item number seven, striking 1,452,473 should not be there.

EXHIBIT(fcs67a04)

Motion: SEN. SCHMIDT moved that HB 2 BE CONCURRED IN AS AMENDED.

Motion/Vote: SEN. SCHMIDT moved that HB000260.AMD BE ADOPTED. Motion carried unanimously by voice vote.

EXHIBIT (4)

Recess 9:20 a.m.
Reconvene 9:40 a.m.

Section A

REP. JOHN SINRUD, HD 67, Bozeman, advised he was the Chairman of the Joint Subcommittee on General Government and Transportation. He thanked subcommittee members and staff.

The Legislative Branch consists of the House and Senate, Legislative Services, Legislative Fiscal Division, and the Legislative Audit Division. The Legislative Branch is funded primarily with general fund. The budget is biennial in response to the cyclical nature of the legislative sessions. The general fund is $16.6 million, and state special revenue is $4.2 million. There is an increase to the base budget of $2.5 million, and one decrease to the Executive budget for $145,000. Additional major budget adjustments are the elimination of dues to the Council of State Governments (CSG), an increase for statewide present law adjustments, an increase for interim costs, disaster recovery and security plans, and legislative participation in interim activities.

The Consumer Council represents consumer interests in appearing before the Public Service Commission (PSC). It is funded via a tax levy on regulated entities under the jurisdiction of the PSC. The base budget was $2.6 million; through legislative action it went up to $2.8 million, an increase of roughly $176,000. This is an increase of $2,000 over the Executive budget.

The Judiciary includes the Supreme Court, District Courts in 22 judicial districts, and 152 courts of limited jurisdiction. The Department is funded by general fund of $71.9 million, state special revenue of $6.2 million, and federal special revenue of $1.4 million. Legislative action increased the base by $12.5 million for a total biennium budget of $79.6 million. This is an increase of $800,000 above the Executive budget. The major budget adjustments were $1.1 million for purchase of software for district courts and courts of limited jurisdiction, $900,000 to support information technology, $700,000 for the addition of 8.0 FTE to support the district court efforts, public defender costs of $3.0 million, "unfit to proceed" costs of $2.0 million, and county paid leave costs of $700,000. There was an increase of $800,000 for 7.0 FTE to accelerate the water adjudication process, as well as an increase of $1.1 million in federal funds for various federal grants.

Within the Governor's office the funding sources are primarily general fund. There is $10.7 million in general fund, $184,000 in state special revenue, and $40,000 in federal special revenue. The base for the budget was $8.8 million, and, through legislative action, there was an increase of $2.2 million. This is a decrease from the Executive budget of $2.4 million.

The Secretary of State's office operations are funded primarily with proprietary funding derived from fees for services, document sales, and other fees established in statute or administrative rule. HB 2 includes only federal special revenue for election reform initiatives of the federal Help America Vote Act of 2002, with the addition of $11 million in federal funds. The Legislative budget is the same as the Executive budget.

The Commissioner of Political Practices is funded only with general fund. The base is $309,300, and for the biennium the budget is $618,600. Through legislative action, that budget was increased by $94,900. It is a decrease of $65,800 over the Executive budget.

The State Auditor's Office receives no general fund and is funded by state special revenue from fees levied on insurance and securities entities doing business in Montana. There were no changes beyond those funded by the Executive budget. The base for the biennium was $8.8 million. Legislative action increased that budget by $1.4 million.

The Department of Transportation is funded by state special revenue of $553.2 million and federal special revenue of $624.8 million. The base for the biennium is $981.5 million and, through legislative action, that has increased to $1.178 billion for a total increase of $197 million. This is a decrease from the Executive budget of $38 million.

The Department of Revenue total fund budget would increase by $9.8 million for the biennium over the base to $78.2 million. This is a decrease of $5.4 million relative to the Executive budget.

{Tape: 2; Side: B}

The Department of Administration has a base for the biennium of $34 million. Through legislative action that base was increased by $5.3 million. This is a decrease of $3.7 million from the Executive budget.

The Appellate Defender Office budget was increased by $181,290. This is an increase from the Executive budget of $156,900.

The Montana Consensus Council budget was increased through legislative action by $154,200, which is over the Executive budget by $237,000.

Questions from the Committee:

SEN. TRUDY SCHMIDT wondered which agencies were funded solely by general fund. **REP. SINRUD** advised the Commissioner of Political Practices and the Appellate Defender were solely general fund. The Judiciary is 90 percent general fund. The Montana Consensus Council has a portion of general fund. For the most part, there is a mix. **SEN. SCHMIDT** asked if the Governor's office has the most percentage of general fund. **REP. SINRUD** replied the Department of Revenue is close to that as well. The majority of funding of both those agencies is general fund, as well as the Judiciary. **SEN. SCHMIDT** asked if they followed the recommendations of the previous Governor, which were pretty close to those of the new Governor,. **REP. SINRUD** answered, for the most, part the agencies kept fairly close in line with Governor Martz's budget. There was more money spent in the Governor's office in Governor Schweitzer's budget relative to the Martz budget. There were some funding switches in the Judiciary. **SEN. SCHMIDT** asked about the new proposals in the Governor's office compared to former Governor Martz. **REP. SINRUD** advised there were three new proposals including the Federal Relations Office in Washington D.C., which was $500,000 for the biennium. There was the Marketing Montana and Business Recruitment Program request for $1 million. In subcommittee that was cut down to $600,000, and was removed altogether on the floor of the House. The Efficiency Council was $400,000, the Substance Abuse and Prevention Treatment Program was $389,000, and the Commissioner of the Board of Education was $200,000. Proposals that did not get accepted included an Executive Office increase of $104,000; $75,000 of the $150,000 increase for the Air Transportation Program was removed. There was a proposal from the Martz administration to increase the Governor's Mansion Maintenance budget by $18,500 per year, with an additional increase of $25,000 per year from Governor Schweitzer which the subcommittee removed. In the Department of Revenue there was a new decision package which increased funding by $1.12 million in general fund for the biennium for 8.0 FTE. These were compliance officers for personal income tax and corporate license tax, and this was not approved.

CHAIRMAN COONEY invited agency directors to comment.

Dan Bucks, Director, Department of Revenue, advised he had three areas of concern. The House removed funding to replace federal funds that were removed from the Department when the Unemployment Insurance function transferred back to the Department of Labor in the unraveling of the POINTS system and the decision making that occurred. This was funding that was provided to the Department by the federal government as a percentage of fixed costs in the Department. These were costs that existed before Unemployment Insurance came over to the Department, costs that were there over that period of time, and costs that remained afterwards. There was no change in these fixed costs. This is not the variable costs associated with people coming over and going back to the Department of Labor and Industry. Simply because Unemployment Insurance was within the Department, the Department could bill the U.S. Department of Labor 17.6 percent of overhead costs. This was recognized by the 2003 Legislature, and this funding was replaced and provided for in FY 2005. The only reason it was not in the base budget was because the replacement started in 2005 instead of in the base year of 2004 for this biennium. These fixed costs are the costs of processing checks, accounting for funds, etc., that did not change with the movement of the Unemployment Insurance function in and out of the Department. The only thing that changed was the billing to the U.S. Department of Labor to save costs to the general fund. If these funds are not replaced, the Department will be reduced by approximately 15.2 FTE. The Department is already 10 percent smaller than it was ten years ago. There are 70 fewer FTE in the Department, even though the number of taxpayer accounts has increased significantly. The number of parcels of property they have to value has increased, and the complexity of the issues they have to address has increased. They estimate if these funds are not replaced that the general fund revenues they collect will go down by $6 million to $9 million a year because of reduced compliance efforts. **Director Bucks** favored an amendment requested by **SEN. JOHN COBB** to transfer the additional compliance officer that was approved in the DPHHS budget back to the Department of Revenue. He noted these compliance officers will focus on out-of-state companies and non-residents, a serious area that the Department is not able to address adequately with current staff. The Department has a request for funding of an agricultural land valuation process for the 2007 biennium and continuing into the 2009 biennium. Current law requires that the Department adopt a reappraisal plan that reappraises agricultural land, residential and commercial land, and forest land into a common appraisal cycle. The Department is funded to do residential and commercial land and forest land; they are not funded to do agricultural land. There is a risk of litigation at the end of this appraisal cycle that could disrupt the property tax system, which raises over a billion dollars. The concern is there could be a challenge to the appraisal process if they do not revalue agricultural land values as required. Originally, Governor Martz's budget included a $1.4 million request premised on a method of valuing agricultural land property that was inequitable and disruptive once it was tested in the field. That proposal was reworked into a $2.8 million proposal, and that proposal was not accepted. After the action in the House they rethought their idea of approaching the whole process. They came up with a revised procedure that would require $570,000 in the 2007 biennium and approximately $700,000 in the next biennium to complete agricultural land reappraisal in a process that involves using modern data sources and, instead of hiring staff to go out and talk to farmers and ranchers, asking farmers and ranchers over a two-year period to stop into county offices, look over the maps of their land, and complete the process. The process of cooperating with farmers and ranchers over a longer period of time will significantly reduce the cost and meet the mandate to reappraise this land along with other properties at the same time. To realize this cost savings they have proposed and requested a Senate Finance and Claims bill that would move the final date for reappraising property from January 2008 to January 2009 to allow for this slower process of working with the agricultural community in the agricultural land valuation. This would not change the date in which market values would go on. In this cycle there is a one-year lag that is built in that was not present in any prior cycle. If they move this date, they can do the job that is required under the law less expensively with no harm to the overall appraisal process. This would be of benefit in terms of doing the job right and in accordance with the mandate of the law to value all these categories of property at the same time.

Questions from the Committee:

SEN. STAPLETON asked about the money realized by the additional auditors and mentioned that several bills use the same amount of money that auditors will bring in. **Director Bucks** advised the 2002 funding was used primarily to work on compliance issues with respect to Montana residents. The 8.0 FTE involved different issues, different taxpayers, and a different type of staff to deal with these issues. The focus was primarily compliance problems with multi-state corporations, multi-national corporations, and non-resident individuals. It is estimated that $3.6 million will be realized by this staff during the 2007 biennium using the current legal tools. There would be an additional $18 million with the enhanced legal tools in SB 513. **SEN. STAPLETON** wondered if that infers that the Department is not doing as good a job as they should be. **Director Bucks** replied they do not have the staff or the legal tools needed to address the abuse of tax shelters and the non-resident failures to file and pay taxes on income earned in Montana. He pointed out that the Department of Revenue is ten percent smaller than it was ten years ago for comparable functions. There are 70 fewer FTE, yet they have 43 percent more corporate taxpayer accounts than ten years ago. The number of taxpayers has increased, the complexity of the issues has grown, and the Department is smaller. They need these tools and these resources to reward honest taxpayers who are doing the right thing and paying their fair share. They would ask those who are not paying their fair share and not complying with the law to step up to the plate.

{Tape: 3; Side: A}

SEN. STAPLETON recalled the reason the Legislature reduced FTE's was part of the deal with the new computer system. He asked about the new proposal that the subcommittee dubbed "declaring war on the farmer." There would be $3 million to $5 million raised from reappraising agricultural lands, which has not been done since the 1960s. He wondered why they would push the results of that beyond the next general election and about the receptiveness to that in the House. **Director Bucks** indicated most of the discussion was in the subcommittee, and the subcommittee did not oppose the agricultural land evaluation funding. There was no extensive discussion in the House Appropriations Committee. The plan was to talk to farmers and ranchers in 2007 and 2008. In 2006, they would begin to do the mapping and data collection. There would be no significant reclassifications of lands from one category to another until the values go on in January of 2009. The 2009 Legislature would have an opportunity to adjust the class factor for agricultural land statewide. There is a problem with respect to mis-classified lands. The Department conducted tests in four counties, and ten percent of the farm land in those four counties is actually grazing land, is classified as such, and carries values that are one-fourth that of the farm land from the neighbors next door. It is all farm land, but ten percent is classified as grazing at a lower value. In Richland County, 20 percent of the farmland was still being valued from decades ago as grazing land. That does not meet the standards of the law. The overall values across the state and what revenues would result would be up to the 2009 legislature. By adjusting the class factor, the Legislature could keep the agricultural taxes flat. The job of the Department is to classify and value these lands properly. The law says the reappraisal plan must provide that all class 3, 4, and 10 property in each county is revalued by January 1, 2008. They are proposing to move that to 2009. There is a concern about litigation by residential and commercial property owners because agricultural values have not been changed in accordance with the what the law requires.

SEN. KEITH BALES advised **REP. JIM PETERSON** carried a bill in the House that would have implemented the program the Department is planning. He asked if the bill was currently dead. **Director Bucks** advised they do not consider that legislation necessary. It was primarily based upon the notion of taking four farmland categories of dryland hay, irrigated land, summer fallow, and land that is cropped year after year, and putting them into one. That plan was reflected in Governor Martz's budget. When the Department tested that in the four counties, there were significant inequities. **REP. PETERSON'S** bill was the primary vehicle for doing that. Once they saw the test results, they realized that was not the correct way to do it. **SEN. BALES** said that plan would use GIS mapping to classify land. If that is scrapped, he wondered how they would map and categorize this land. **Director Bucks** said they are still using that same process. The premise in that House bill was to use data from the

U.S. Department of Agriculture. The data would translate into grazing land and farmland, and would be the starting point of the new valuation. In this biennium, they would gather that data, map every farm and ranch in the state, and put it into these broad categories. In 2007 and 2008 they would work with each agricultural producer to refine their categorization from these maps down into the finer categories that truly reflect the differences in agricultural production. **SEN. BALES** expressed concern about funding the Department to collect data with no clue about the end point. **Director Bucks** advised they will follow state law. State law has a framework for categorizing agricultural land into five different categories. State law also provides for an agricultural land advisory committee to help guide this process. That process would proceed, and if there are any adjustments recommended by the Agricultural Land Advisory Committee, the 2007 Legislature can make those adjustments. The Department will talk to agricultural producers to refine where their land fits in these categories. The Department will either use the current framework of the law or the current framework as it might be adjusted in 2007 based upon further research.

SEN. BOB KEENAN advised for every session he worked on HB 2, whether in House Appropriations or Senate Finance and Claims, there were always auditors in the budget. It is too competitive for state government to be able to hire these auditors. This type of approach has never worked in the five budgets that he worked on. This new approach involves a more complicated area of auditing tax compliance for out-of-state corporations. He wondered why he should believe it will happen now, when it has not happened in ten years. **Director Buck** maintained, in the special session in 2002, the Legislature authorized 13.3 positions in the Department for compliance; 3.3 of those were collectors for accounts receivable and ten of those were for auditors. Those auditors work on issues related to Montana residents, and all 13.3 positions were successfully filled. The Department had certain targets to hit in terms of revenue produced. At the end of the last fiscal year, in two years time, the Department had already exceeded the three-year revenue target by $7 million. The Department has corporate auditors who are only able to accomplish 25 corporate audits a year with current staff. He expressed confidence that the Department can hire at the requested levels.

SEN. RICK LAIBLE asked about the land valuation process. They saw this proposal in subcommittee, which was to reclassify existing farmland to determine current use. He asked how they had done revaluation until now. **Director Bucks** advised the reclassification has not been done for forty years. Agricultural land is not valued at market value; it is valued at productivity value. Reclassifying is one big part of the revaluation process. The other part of the revaluation process consists of updating yield data. There have been minor updates to the yield data from time to time, but not a systematic rethinking of the yields that apply across the state. Given the mandate they are now under to revalue the property in conjunction with residential and commercial property at the same time, they need to do both the reclassification job and a thorough job on the yield data. **SEN. LAIBLE** asked about the mandate in 2005 that says they have to do this. **Director Bucks** advised the mandate is the law enacted by the Legislature in 15-7-111 (3), and he read from the statute. **SEN. LAIBLE** asked if they have been breaking the law for forty years. **Director Bucks** said he did not know the history of this section, how the dates changed, and whether they had the "must" with all three classes. This is the way the law reads for the current appraisal process. **SEN. LAIBLE** asked about projections about revenue to the state as a result of implementation of this land revaluation process. **Director Bucks** advised he did not have a clear idea of the revenue result because it will be mostly under the control of the Legislature. After reappraisal the Legislature adjusts the class factor, and that will determine the revenue results more than anything else. He suspected the Legislature would try to make sure there was not an increase for the whole agricultural community as a sector.

SEN. SCHMIDT asked about the revised revaluation process and the $1.2 million that would be needed for the biennium. **Director Bucks** advised they amended their revised proposal for the 2007 biennium; it would be $570,665 for the first year and about $700,000 the second year. The Department would have to come back to the 2007 Legislature for the second year. In both instances, this would be one-time monies. **SEN. SCHMIDT** asked about the issue with the replacement of federal funds. **Director Bucks** advised, in terms of the operations of the Department, they are dealing with fixed overhead costs of the Department. These are costs and functions that existed in the Department before Unemployment Insurance came to the Department, remained the same during the period, and are there afterwards. During the period of time that the Unemployment Insurance function was in the Department, the Department could bill $17.6 percent of these fixed costs to the U.S. Department of Labor. It was an accounting change, and it saved money for the general fund. The Legislature recognized this in the 2003 session and began the replacement process. In FY 2005, these funds were replaced. The only reason this issue is back here is because the base year for the 2007 biennium is FY 2004, not FY 2005. There would be a net reduction in the Department of about 15.2 positions, which would affect revenue raising capacity and the integrity of the tax system without this funding.

SEN. BALES contended agricultural land has been re-valuated every six years the same as everything else has. The interim committee just brought that evaluation in line both for residential and for agricultural land. He asked if they were looking at a quicker, easier, and better way of reclassifying that land and if that will be on a separate time line from the other classes of property that are re-valuated every six years. **Director Buck** advised the proposed bill would move the date for the appraisal cycle to 2009. The reclassifications would not take effect until January 1, 2009, and would be subject to a phase in identical to residential and commercial property, unless the Legislature in 2007 decided on a different phase in. This will be much smoother and less disruptive within the agricultural community, because none of the values will go on until 2009. **SEN. BALES** noted there would have to be an interim committee to figure out the phase in. Part of the job of that committee would be to compare the different property values and make sure everybody is treated equally and fairly. Without one of the major players, he wondered how to make it equitable to everybody concerned. He expressed concern that putting the classes on different time lines will cause unforseen problems. **Director Buck** responded that all three classes of property will be on the same time line in the proposal, and all three classes of property would be moved back to 2009.

Public Comment: None.

Motion: **SEN. STEVE GALLUS moved that HB2000216.ATP BE ADOPTED.**

EXHIBIT(fcs67a05)

Discussion:

SEN. GALLUS said the amendment would restore the caseload contingency fund in the Consumer Counsel to the level recommended by the Governor. The House reduced it, and the amendment would put it back on.

SEN. SCHMIDT asked someone from the Consumer Counsel to explain what is involved.

{Tape: 3; Side: B}

She was told this contingency is in place by virtue of state statute that requires their budget to be in two parts. The contingency is to allow for the risk of increased utility litigation. They experienced that last year during the Northwestern Energy bankruptcy. They were unable to get any emergency funds from the Governor's office, because they were not an Executive agency. There are other utilities that are not in good financial shape, and a situation like the bankruptcy could occur in the future. The office of the Consumer Counsel does not spend all their money every year and do not know until after the end of the fiscal year what the bills are going to be in the last month or two of the fiscal year. They are concerned that in the future they may be in a situation and not be able to receive any additional funding except through a special session.

Vote: Motion carried 14-5 by voice vote with SEN. BARKUS, SEN. COONEY, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

Motion: SEN. COONEY moved that HB000219.ATP BE ADOPTED.

EXHIBIT(fcs67a06)

Discussion:

CHAIRMAN COONEY advised this amendment applies four percent vacancy savings to the Legislative Branch. He indicated he visited with **Lois Menzies, Legislative Services,** about this issue and there is not a great deal of support for this in the agency. **Ms. Menzies** will try to find additional ways to reduce that budget without going this route. He told her he would move this item, and if it is successful the committee would reconsider it if she were able to come back with something. They apply four percent vacancy savings across the Executive budget. He advised he does not personally like vacancy savings, but if they are going to apply it, he thought it needs to be applied evenly. It will save close to $200,000 a year.

SEN. LAIBLE asked the committee to reject the amendment. Last session the agency did not have vacancy savings. The Legislative Branch has three separate approving authorities within it. They need the positions to be filled to meet the workloads of the Legislature. This is the agency that the Legislature works with 12 months a year. He thought the agency would be in an incredible bind. This is a small agency, and agencies that have less that 20 FTE's are not given vacancy savings. If this agency is crippled with this reduction in funding, that will cripple the Legislature.

SEN. GREG LIND asked **SEN. LAIBLE** to compare and contrast the vacancy savings in this Department to DPHHS. **SEN. LAIBLE** advised DPHHS is a component that the Legislature deals with for three to four months every two years. They deal with the Legislative Branch on an ongoing basis. Overall, the FTE's in DPHHS stay fairly consistent.

SEN. BALES stated opposition to the amendment. The Interim Finance Committee faced the fact that many in the Legislative Division had a lot of comp time built up. When the subcommittee looked at the budget for Legislative Services, they were pleased that the Audit Division came in at less personnel for less money. He was sure the Audit Division was not planning on any vacancy savings, and were actually doing the vacancy savings on their own. Putting that burden on the Legislative Services Division is bad policy.

SEN. JOHN BRUEGGEMAN advised he previously chaired and served on the Joint Subcommittee on General Government for four years. The broad brush vacancy savings has always been a bad policy. It is one of the tools they use to budget no matter who is in charge. The subcommittee should apply vacancy savings to the agencies based on what the historical savings have been. The Legislative Branch typically does not have any. The workload of the Legislature is changing due to term limits and will continue to increase as new members come on board. He said they always hear the argument that, if they are going to cut someplace, they should start with their own house. He said he could not agree less with that argument. He said he would cut any other agency before he would cut the Legislative Branch. They should not cut those services that are essential to making the public's voice heard.

Mr. Schenck suggested allocating this within the three agencies if the amendment passes. **SEN. JOHN ESP** said they could take $200,000 out of legislative salaries. **Mr. Schenck** indicated those are excluded. **SEN. ESP** asked if there is any effect on the feed bill, and **Mr. Schenk** indicated, no. **SEN. ESP** commented, with term limits, there would be an adverse effect. (*Note: There was a taping gap of about 10 minutes.)*

<u>Vote</u>: Motion carried 11-8 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

<u>Motion/Vote</u>: SEN. LIND moved that HB000243.AMD BE ADOPTED. Motion carried 12-7 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

<u>EXHIBIT</u>(fcs67a07)

<u>Motion</u>: SEN. LAIBLE moved that HB000251.AMD BE ADOPTED.

<u>EXHIBIT</u>(fcs67a08)

Discussion:

CHAIRMAN COONEY advised, depending on how this amendment goes, he would offer an amendment that will address the travel money. It does not impact NCSL, PNWR, River Governance, and the organizations that they are statutorily obligated to belong to. **SEN. ESP** inquired, if this amendment goes down, if there will be an attempt to leave the travel money in for NCSL and other things or if he intends to cut the travel money. **CHAIRMAN COONEY** indicated it was his intention to cut the remainder of the CSG money. There would be about $40,000 for additional travel to NCSL. **SEN. ESP** asked if it is **CHAIRMAN COONEY'S** intention to keep the other organizations in the budget, and **CHAIRMAN COONEY** replied, it is.

Vote: **Motion failed 4-15 with SEN. BALES, SEN. BRUEGGEMAN, SEN. GALLUS, and SEN. LAIBLE voting aye.**

Motion: **SEN. COONEY moved that HB000218.ATP BE ADOPTED.**

EXHIBIT(fcs67a09)

Discussion:

CHAIRMAN COONEY advised this reduces the CSG travel money. It leaves about $40,000 in the budget for additional membership participation for travel in NCSL.

SEN. STAPLETON asked if this is in addition to the $400,000 they just cut from the Legislature. **CHAIRMAN COONEY** replied this is in the committee budget, and not in the Legislative Branch budget. **SEN. STAPLETON** asked if the Legislative Branch will be reduced by $439,000.

{Tape: 4; Side: A}

CHAIRMAN COONEY emphasized that the $40,000 that remains in the budget when they take this out will be there for NCSL travel for members who want to participate in NCSL activities. That money has not been in the budget before. It will be in the budget to allow for additional participation.

Vote: **Motion carried unanimously by roll call vote.**

Recess 11:35 a.m.
Reconvene 3:50 p.m.

Motion: **SEN. COBB moved that HB000238.ALS BE ADOPTED.**

EXHIBIT(fcs67a10)

Discussion:

SEN. SCHMIDT inquired where the money was previously. **SEN. COBB** replied all the money was in the Director's office for I-149. Some of the money for HB 667 has to be appropriated to the State Auditor's office. HB 667 is premium assistance for small employers. The amendment puts it into the proper divisions in Section B.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. COBB moved that HB000239.ALS BE ADOPTED.

EXHIBIT(fcs67a11)

Discussion:

SEN. COBB advised the amendment moves the appropriation for the tax compliance auditors from DPHHS to the Department of Revenue. There is no change in the appropriation, but the narrative will show that 9 FTE can be funded instead of 6 FTE. In the human services subcommittee they appropriated the money for the tax compliance staff. If this amendment is killed, the money is still in DPHHS and can still be transferred to Revenue.

Vote: Motion carried 17-2 by voice vote with SEN. KEENAN and SEN. STAPLETON voting no.

Motion: SEN. COONEY moved that HB000254.AHF BE ADOPTED.

EXHIBIT(fcs67a12)

Discussion:

CHAIRMAN COONEY said the amendment implements the provisions of SB 146. SB 146 establishes the Montana Public Defender Act. This amendment transfers funding into the Office of State Public Defender and creates two new programs within the agency. This will be administratively attached to the Department of Administration. Funding is transferred from the Judiciary, the Department of Corrections, and the current Appellate Defender Office.

CHAIRMAN COONEY asked **Harry Freeborn, Legislative Fiscal Division**, to address the money that is in this amendment. **Mr. Freeborn** advised there is additional funding. In FY 06 in the general fund there is an additional $731,698, and in FY 07 there is an additional $5,477,656. He apologized that was not in the amendment.

Vote: Motion carried by voice vote.

Motion: SEN. ESP moved that HB000220.ATP BE ADOPTED.

EXHIBIT(fcs67a13)

Discussion:

SEN. ESP explained this morning they took $40,000 out of the legislative travel budget for CSG, and this amendment puts $20,000 back in for additional travel to NCSL. He thought they should have the ability to learn how to do their job more effectively.

SEN. DON RYAN said the money they took from CSG was dues money. He asked if this puts back in travel money. **SEN. ESP** advised there were two amendments. One of them involved dues, and the other one involved travel money. This is to replace some of the travel money they took from CSG and allocate it back towards NCSL.

SEN. GALLUS inquired if the intention was to fund travel for things that were not cut. **SEN. ESP** said it was specifically for NCSL. He indicated he had been to several NCSL events that covered policy and technical areas. He maintained legislators used to learn on the job over ten years, but they do not have that luxury now. If Legislators are willing to commit their time to go to these things, then their travel expenses should be funded to the benefit of the Legislature itself and the people of Montana.

SEN. HAWKS asked if there are travel funds currently on the books in addition to this for this purpose. **SEN. ESP** replied there is $40,000 earmarked for travel expenses for NCSL. This would add $20,000 to that.

CHAIRMAN COONEY indicated he would be willing to support this under other circumstances, because he realized the value of groups such as NCSL and CSG. Legislators can learn a lot by attending conferences and meetings. Legislative participation in NCSL is already funded for $40,000 more than has been in the budget previously. He wished he could support the amendment, but they are trying to trim some money out of the budget. This is one area where they can save a small amount of money. He encouraged the committee to resist the amendment.

<u>Vote</u>: Motion failed 3-13 by roll call vote with SEN. BARKUS, SEN. COBB, and SEN. ESP voting aye.

<u>Motion/Vote</u>: SEN. COONEY moved that HB000259.A.F. BE ADOPTED. Motion carried 13-6 by roll call vote with SEN. BARKUS, SEN. BRUEGGEMAN, SEN. COBB, SEN. ESP, SEN. HANSEN, and SEN. KEENAN voting no.

EXHIBIT(fcs67a14)

CHAIRMAN COONEY noted his intention to re-open sections to deal with contingency and other amendments.

Ms. Purdy referred to amendment HB000240.agd.

EXHIBIT(fcs67a15)

She indicated they asked **Greg Petesch, Legislative Counsel**, for a legal review of the language in HB 2, and he raised some concerns. This amendment is a result of those concerns in Section A. There was a date for a required report of July 1, 2005, which coincided with the effective date of HB 2. There was a change in reference to fund types within the Department of Transportation. There was also an adjustment in some language that took out what **Mr. Petesch** considered to be an inappropriate reporting requirement and also an inappropriate requirement that certain transfers be approved in contradiction of statute.

<u>Motion/Vote</u>: SEN. COONEY moved that HB000240.AGED BE ADOPTED. Motion carried unanimously by voice vote.

<u>Motion/Vote</u>: SEN. KEENAN moved TO CLOSE SECTION A. Motion carried unanimously by voice vote.

<u>Section B</u>

Recess 4:15 p.m.
Reconvene 4:32 p.m.

{Tape: 4; Side: B}

REP. CHRISTINE KAUFMANN, HD 81, Helena, thanked the subcommittee, staff, and the Department. There are eleven divisions within the Department of Health and Human Services (DPHHS). There are 2755 FTE and two-thirds of those reside outside of Helena. The 2007 biennium appropriation for DPHHS is $563 million higher than the FY 2004 base budget. She indicated that comparing biennium to biennium gives a more reasonable comparison. The increase is all funds, and not just general fund. The general fund increase is $103 million. The total funds increase over the biennium is $460 million. General fund is about 23 percent of the total funds for the Department. Almost all of the growth within the original Governor's budget, both the Martz budget and the Schweitzer budget, were responses to particular needs around the margins by the subcommittee. Most of the increase was Medicaid caseloads and match rate. Medicaid is an entitlement program, and the Department makes the best guess they can. Medicaid is a significant source of funding for medical services in Montana, and it is vital to the economy of Montana. Between 10 and 12 percent of all Montanans are eligible for Medicaid services every year, and their care represents 17 percent of the total health care purchased in the state of Montana. Medicaid directly supports over 9000 jobs and generates more than $267 million in income for the state of Montana. Over 13,000 jobs are created and over $375 million is generated for Montana's economy. She contended that Medicaid is an important program for the state of Montana that not only serves the health care needs of the population but also stimulates economic activity in our communities. The federal government provided an enhanced Medicaid match rate in FY 04 because of the budget crises that were being experienced around the country. That enhanced rate has now been removed, and that costs Montana $28 million. In addition, there was a decrease in the federal match rate because Montana's economy is improving in relationship to the rest of the states in the union. That cost Montana another $27 million. The estimates for caseload will cost another $35 million. That is almost $90 million in increases just to get back to the level of services provided over the last biennium. Those were included in the Governor's budget. The increases in state special revenue come primarily because the citizens passed I-149. The hospital bed tax utilization fee is another reason for the increase in state special revenue. Increases in federal revenue are due to the $44 million increase in the food stamp program. She characterized this as a good thing; it means more Montanans are begin helped with their food needs. Overall, it is over $100 million. That is all federal funds, and there is no state match required for that federal program. The hospital bed utilization fee has a big federal component and an increased cost of $60 million. Medicaid eligibility was a $131 million increase in federal funds. Only about $11 million was new general fund money that was added by the subcommittee's actions. They used $4 million of the LIEAP money in the Governor's budget in some of the priority areas. The subcommittee expended money for auditors for the Department of Revenue. Those were left on the table in Section A during subcommittee action, and they decided it was important to have those resources coming into the state to fund programs in DPHHS. They appropriated money for auditors for DPHHS and ordered the transfer of those auditors to the

Department of Revenue. The subcommittee wanted to be able to account for the $3.6 million that the auditors would bring in over the cost of the auditors themselves. They used additional money from the cigarette tax. There were I-149 funds in excess of the Executive request that they felt were appropriate to be used for these issues. There was a displaced homemakers funding switch in Section D, and so the subcommittee used the general fund that had been provided to the displaced homemakers program. In addition, they used unaccounted-for income tax revenue that would result from the pay plan for state employees. They increased direct care worker wages, which they believed would supply additional income tax to the state of Montana. There were savings in legislative travel from Section A that they expended. A total of $17 million was expended. This was the primary area where they deviated from the Governor's budget. For the most part, the House Appropriations Committee did not make any changes to what the subcommittee had done. There were a few changes on the floor of the House. The subcommittee increased direct care worker wages for nursing homes and children's mental health services. These workers care for seniors and the disabled both in institutional settings as well as in-home care services. The subcommittee received a lot of testimony from these people about the importance of this service and the need for that service to be available to more people. They provided $600,000 for in-home care-giver services to local communities. They provided additional funding for meals-on-wheels. In addition, they accepted the budget, which restored meals-on-wheels back to the general fund. They reduced the budget by $6 million in total funds by accepting the legislative estimates rather than the executive estimates on caseloads for nursing homes. They increased the home and community-based service waiver to provide additional in-home care for about 112 persons. Provider rates were increased for physicians to get them up to about 85 percent of the Medicare rates. They increased the rate somewhat for foster care parents and also foster care group homes. The Child and Family Services Division administers the foster care programs for the state. The subcommittee heard a lot of compelling testimony from families who had foster care children and from the children themselves. These families asked the subcommittee to line item the clothing allowance and diaper allowance so, if the Division falls on hard times again, that they find some other place besides the allowance to families to make those cuts. She mentioned that this Division has been subject to two federal reviews over the last several years. The federal government revised its criteria and is looking more closely at the use of federal funds in this particular program. Every state, including Montana, has been required to enter into a performance plan and to improve their performance in the expenditure of federal funds. Montana's plan has been accepted; but Montana stands to lose up to $3.4 million if that plan cannot be met. There was also a review of eligibility compliance in the area of foster care, and Montana was found out of compliance as many states were. The federal government disallowed $300,000, which needed to be repaid. A corrective action plan has been implemented, and there will be another review later this year. The subcommittee felt it was critical to provide some support to this Division to be able to avoid penalties and to meet the increased scrutiny that they are getting from the federal government. This was the only place where the subcommittee rejected the FTE reductions requested by the Governor's budget. They also reduced the vacancy savings in the field staff for this Division, moving it to 2 percent instead of 4 percent. There have been amendments drafted that deal with these issues, she noted. There were a number of service and eligibility increases. They put money in the budget from I-149 to eliminate the Medicaid asset test; this is tied to HB 552 which raises the bar to $15,000 on assets. The Developmental Services Division was given minor increases to help the waiting list for extended employment and independent living. Those increase comes from the revenue identified previously. There is a major systems redesign in place in the Division due to a federal Medicaid review of the home and community based services waiver and also a lawsuit that is known as the *Travis D.* lawsuit. There will be individual cost plans for the clients of Developmental Disability services instead of negotiated contracts with providers. There will also be a statewide published provider rate system, and providers will bill for actual services rather than just a contract overall to provide a general set of services to a certain number of clients. There is an effort to move services from institutional settings to community based settings as a result of the *Travis D.* lawsuit. The subcommittee provided some funding for training, crisis services, and some startup costs for construction of community based centers. Direct care workers wages were raised through the Governor's budget. The subcommittee provided for a computer technician to assist the blind and increased funding for the early intervention program. Initially, the subcommittee completely wiped out the waiting list for extended employment and independent living with a combination of general fund dollars and the employment security account. The employment security account portion was reversed on the floor of the House, where a case was made that was not an appropriate use of the employment security account. Last session, the Legislature decided to use the TANF block grant in order to support childcare. About $19 million comes directly out of the $42 million TANF block grant to support child care assistance programs. She said it was a reasonable policy choice, and they heard from a lot of childcare providers in subcommittee thanking them for the support and urging continued funding at the current level. The TANF block grant was no longer sufficient to sustain the level of cash benefits that had been paid to TANF recipients. The child care funds go to TANF recipients, but they also go far more broadly to persons who did not qualify for TANF. As a result, the Department cut the TANF benefit in August of 2003. Families lost about $135 on average in their TANF benefit. Most TANF recipients are not life-long recipients; the average time on TANF is about nine months. The subcommittee hoped to be able to stabilize families by increasing the TANF benefit. One of the ways they did that was by funding $2.4 million of the childcare with general fund, which freed up $2.4 million of TANF to support cash benefits. It was the belief of the subcommittee that the benefit could be raised by about $50 a month. They looked at other places that TANF money was going in addition to the childcare transfer. They put language in HB 2 suggesting that more money should be spent on the cash benefit at this time rather than some of the new programs that the Department hoped to implement. These included the TANF achievement awards. She said this was a worthy program that would provide cash awards to recognize participants when they reach certain milestones in their effort to gain employment. Six or eight years ago there were 11,000 families on cash assistance, and it is now down to about 4,000. Those that remain are on the margins. The subcommittee believed the need was to stabilize housing for participants in order to care for their families rather than implementing new special programs at this time.

{Tape: 5; Side: A}

REP. KAUFMANN continued that the subcommittee provided $1 million for methamphetamine treatment that was to go to community treatment centers. That was taken out on the House floor by a close vote. She encouraged the committee to consider restoring that amount. The subcommittee was asked to look at I-149 and make recommendations for how that should be spent. The subcommittee mostly accepted the Governor's budget on I-149. The Alliance for a Healthy Montana testified before the subcommittee. That group is made up of about 30 members of the major health care players in the state of Montana, and they had a different proposal. The group was behind the initiative, got it on the ballot, and worked for its passage. The subcommittee moved towards the Alliance proposal in three significant ways including the direct care worker wages, the provider rate increases, and the elimination of the asset test. The subcommittee received testimony and advice from fiscal staff that some of the uses proposed for I-149 money were not allowable or appropriate under the language of the initiative. The initiative says that I-149 funds may not be used to supplant existing health care programs; it must go for new populations and new initiatives. The subcommittee believed that a number of the uses proposed by the Governor supplanted existing programs in relationship to the Children's Health Insurance Program (CHIP), the Mental Health Services Plan, and the Children's Special Health Services Plan.

She distributed a chart showing net general fund increase to move illegal uses of I-149 money to the general fund, and said this could be used for an amendment. She had an amendment prepared for the floor but did not offer it because it requires $6 million more in general fund. She indicated this was a problem that needed to be dealt with before the session ends. There was an effort in the subcommittee for a committee bill to change the language in the initiative to make the uses in the Governor's proposal allowable, but that bill did not find favor.

EXHIBIT(fcs67a16)

REP. KAUFMANN noted they added funds in a number of areas both in the Governor's budget and the legislative initiative. There is an expansion of CHIP, the raising of the asset test, additional health coverage, a rate increase for people that work with children in mental health services, foster care services, and developmental disability services. There is approval of the HIPA waiver, which allows severely emotionally disturbed children to make the transition from children's services to adult services. They also funded a request for 5 FTE to implement and integrate a comprehensive children's system of care. That was a major initiative of the Department that was already in the Executive budget. She was prepared to speak more about the HIPA waiver and the Medicare Modernization Act, which is the federal prescription drug benefit and what that might mean for DPHHS.

CHAIRMAN COONEY commended **REP. KAUFMANN** on the creativity of the subcommittee. He asked for comments from the Department.

John Chappuis, DPHHS, expressed appreciation to **REP. KAUFMANN**, the committee, and the staff. He offered to answer questions.

Questions from the Committee:

SEN. RYAN asked for a further explanation of the $90 million in federal funding that was lost. He wondered, if the economy is growing, why there is no caseload reduction. **REP. KAUFMANN** clarified the $90 million is not really a loss. The $90 million is what is needed for caseload adjustment. She commented that, although Montana is doing well in terms of its relative position with other states in the union, she did not think that translates into the Medicaid population. The growth in the economy is a classic case of the rich getting richer and the poor getting poorer. There is growth in the economy at the upper ends of the scale, and it is not impacting those qualified for Medicaid. **SEN. RYAN** asked if part of that is due to the growing number of seniors. **REP. KAUFMANN** replied, certainly. Montana's population is aging. The aging part of Medicaid is far more expensive than that of the youth populations in Medicaid.

SEN. ESP asked about the mental health services plan pharmacy benefit. **Ms. Steinbeck** advised the pharmacy appropriation is a line item from I-149 for $6.5 million over the biennium. It remains pretty much at the level funded by this body last session. In the second year of the biennium that amount of money will be used for the HIFA waiver. The subcommittee also added general fund each year. **SEN. ESP** asked what they did with the CDC grant. **REP. KAUFMANN** said the Governor's budget increased the tobacco prevention program. For the first time, it now matches what the voters voted on. That was supported by the subcommittee. There were four FTE added to the program and about $4 million for additional services. **SEN. ESP** asked about the number in FY 2006 minus the CDC money. **Ms. Steinbeck** said she would get back to him on the exact number, but there was about $8 million to $9 million of state special revenue. The CDC grant was somewhere around $200,000 to $300,000. Recently, there may be some issues regarding how much CDC will continue, but the subcommittee put in the amount that was requested by the Executive.

SEN. KEENAN observed from the overview that they have two major challenges. Those were the illegal uses of I-149 money and the $2.6 million that is on B-4 from the escalated sale of tobacco products insignia. On that chart there was a balance of $1.383 million. In order to balance the $2.6 million hole, they will need to find $1.2 million. **REP. KAUFMANN** advised it was recommended that the House Taxation Committee approve a $30 million increase in the revenue estimating; the House only approved $15 million. She believed there is $15 million out there from which that $1.8 million could come, in addition to several initiatives that are in the Senate related to increased revenue estimating. The same $15 million can be used to cover the $6 million.

SEN. TESTER referred to the same chart on B-4. The programs were intended to be paid for by the revenue to support appropriations. **REP. KAUFMANN** replied, that is correct. **SEN. TESTER** asked how much of those revenues were one-time monies. **REP. KAUFMANN** replied the monies for I-149 are ongoing for a time, and there are questions about how long that will be. The LIEAP money was identified as one-time-only in the Governor's budget, and she did not know why. **SEN. TESTER** asked **Bob Anderson, Office of Budget and Program Planning**, how much of the $16.95 million is one-time money. **Mr. Anderson** explained the LIEAP money is one-time only. The intent was that, as the oil business has gotten better, the state has received additional revenues. The intention was to take that additional revenue that might be one-time-only, given the vagaries of the oil industry, and use it to help those suffering from energy bill problems. He did not think some of the other items were one-time-only; the question was whether they exist to start with such as the additional income tax, etc. He assumed the tax auditors would continue to work and get that money. The question with the I-149 funds was how long they would continue. There are two pivot points; one is 2011, and the other is having a starting balance of $25 million. It is not exactly one-time-only, but it does shrink. The sales tax on tobacco is not one-time-only, but the question is whether the money is there or not. The other items are savings that have been identified by the subcommittee. He did not think they were necessarily one-time-only. **SEN. TESTER** stated, as **CHAIRMAN COONEY** had pointed out, this is very creative work that was done here; he just wanted to know how much of it is real. **Mr. Anderson** advised certainly the LIEAP money is real, because the budget office funded it and the subcommittee readjusted it. The additional income tax from the tax compliance auditors would be real, according to the revenue director. He did not believe the tobacco tax money is real, because revenue increases one month but not the next. The excess I-149 funds are a matter of how I-149 funds are looked at. Additional items put in by the subcommittee did not allow getting to 2011 with a balance. That means some adjustments may be necessary this session or next session. That is not general fund; it is state special revenue. Medicaid estimates were not, in his opinion, real. That came from the initial review of what they thought the Medicaid estimates were going to be. Every February they re-adjust Medicaid estimates. At one moment they thought it was $4 million, but found out it was $2 million for the biennium. Since they only needed $2 million, the revised executive Medicaid estimates were $1.8 million. The displaced homemaker funds were real, and so were monies that were previously in the ESP account. Another committee put the displaced homemakers in the ESP account and general fund was freed up by that action. The subcommittee added FTEs to reduce costs on Medicaid, and that is real money. He did not know about the estimate for increased income taxes from pay raises or the legislative travel. **REP. KAUFMANN** added the one-time-only on the LIEAP program was money due to oil prices going up. It seemed to her that much of what is in the budget is a best estimate of revenue that will come into the state, whether it is income tax, oil monies, or anything else. She mentioned they designated some of the programs as one-time-only.

SEN. SCHMIDT inquired about where they found the money for meth treatment. **REP. KAUFMANN** advised the total amount of revenue they identified was about $17 million. She agreed that $2.6 of that should not have been counted. Within that amount, they did not say that any particular money would go to a particular program. They simply said they are dumping money into the general fund and now are expending the money. They did not tie a particular source of money to the meth treatment program that was eliminated by the House. She added that the $17 million and the $15.5 million balance out. They expended all of the money they believed they had found to expend. Because of the reductions on the floor of the House, total expenditures were now $15.57 million.

Public Comment:

Bob Liston, Missoula, testified he attended the disability rally in the rotunda. He expressed concern over potential amendments that would eliminate some of the funding from the DPHHS budget. The disability community has worked hard with DPHHS and the subcommittee to get funding back to where it was and a couple of steps forward in a few places. Independent Living dollars are earmarked in the Statewide Independent Living Plan to serve unserved and under-served people, primarily in the eastern part of the state, and Native Americans. Extended Employment would assist people with significant disabilities to get real jobs in the community rather than continue to be forced to have sheltered employment. The direct care provider staff wage increases are important, he stated. There needs to be living wages for folks to take care of the most vulnerable citizens in Montana. He also mentioned Meals on Wheels. He urged the committee not to cut the budget in these areas.

{Tape: 5; Side: B}

Bob Olson, Montana Hospital Association, testified there are a rate hikes of 3 percent in the budget for nursing homes. There is a one percent, one-time increase for hospitals, and a variety of other small increases that are funded primarily by I-149 tobacco funds. It also reflects the funding from SB 120, which passed this committee 17-1 and passed the Senate by a 48-2 vote. SB 120 is now before House Appropriations. Those dollars that are included currently in HB 2 are critical to hospitals. There is also a bill working its way through the House that would require an increase in the nursing home utilization fee. Those dollars keeps them from having to shift Medicaid costs to other payers. As it stands now, payments from Medicaid fall short of costs for providing care by a little more than $80 million. They have always asked the appropriations committees, the Governor's budget office and others to finance that with general fund. Over the last several sessions, up until 2003, those funds were never available. In 2003, a proposal was crafted for the utilization fees. He asked the committee to continue to support the spending proposed for nursing homes and hospitals in HB 2 as it stands today.

Mary Ann George, Montana Child Care Association, introduced two colleagues. She thanked the budget office, the Department for creating a good budget, and the subcommittee. She urged the committee to maintain childcare funding as it is stated currently in the budget. This is the same level of childcare funding as the 2005 budget. After dramatic funding reductions in 2002, which resulted in a reduction of services for children and families served, capacity numbers, provider numbers, and children and families served are all on the upswing. This is helping Montana families to work. This year 11,000 children and 6,000 families will be served. The Childcare Assistance Program provides help for low-income parents as they take the first steps towards being self-reliant and contributing members of the community. This assistance is critical to a parent's success or defeat in this process. Parents whose children attend a quality care program will miss less work and be more attentive and productive at work. Reliable childcare equals reliable employees. In the long run, a parent can succeed and move away from dependence on state programs. There is a correlation between consistent quality care and a child's proper development, success in school, and beyond.

Kim Abbott, WEEL, thanked the subcommittee for their creativity in finding a way to raise the TANF benefit. There were profound negative effects to TANF families when the cut happened in 2003. In order to stabilize families it is imperative that cash level come up. She asked the committee to resist all amendments that would take that money out.

Jim Morton, Human Resource Development Council, supported the inclusion of the Energy Ombudsman in the bill. The reason for his advocacy was his thirty years involvement in energy and services to low income folks in Montana. This position would allow the Council to work with people regardless of arbitrary income limits and to focus on those who are not participants. They only serve about 20-22 percent of those who are eligible. There are a lot of Montanans who are not able to connect with resources. These dollars would help seniors, the disabled, and others who are not getting the benefit of those programs that are out there.

Rose Hughes, Montana Health Care Association, advised they represent nursing homes and assisted living facilities throughout the state of Montana. Nursing homes are very reliant on Medicaid. About 60 percent of all residents in those facilities are on Medicaid. When the state sets Medicaid rates, there is a significant impact on those facilities. There is a provider rate increase in this budget from I-149 monies of 3 percent the first year and 0 percent the second year of the biennium. There are some new waiver slots which will affect assisted living facilities. The direct care wage can be directed to direct care staff. For the nursing homes, all of the funding from various sources will barely pay the cost of nursing home care. If any of those come apart, nursing homes could see as much as $15 per patient day less than the actual cost of providing care. She asked for support of the subcommittee's work.

Linda Stohl, Association of Montana Area Agency on Aging Directors, advised there are ten of those areas in the state providing services to older Montanans. There is $1.2 million in the senior and long-term care section of the Governor's budget for their services, and the subcommittee added $1.1 million. The services provided are Meals on Wheels, home health care, and direct care services. She estimated to fully fund this program would cost between $16 million and $20 million. The number who are eligible versus the number served is somewhere between 20 percent and 30 percent of the population. The Meals on Wheels program does not have the money to deliver to the Helena Valley. There are many eligible people across the state who do not get served by virtue of where they live, and she pointed out that the "pop tax" would have funded $6.6 million.

Jani McCall, Montana Children's Initiative Provider Association, and **Deaconess Billings Clinic,** acknowledged the work of the subcommittee in terms of children and families, particularly those with mental health issues, abuse and neglect, etc. She strongly urged the committee to accept the recommendations of the subcommittee and the House in terms of the rate increases to children's mental health and to child welfare providers. These providers have had a decrease in their treatment rate for mental health over a ten-year period. She commented hospitals have a one percent rate increase in the budget, and she requested support for that rate increase. She strongly urged the passage of SB 120, which is the utilization fee continuation bill carried by **SEN. KEENAN.**

Carl Schweitzer, Montana Association of the Blind, expressed appreciation to the subcommittee for the technology specialist in the bill. This will help the blind to better utilize computers.

Joe Mazurek, Protect Montana Kids, expressed gratitude for the funding of the Tobacco Prevention Program in the manner that was recommended in I-146. He encouraged the committee to hold to that.

Motion: SEN. COBB moved that HB000222.APG BE ADOPTED.

EXHIBIT(fcs67a17)

Discussion:

SEN. COBB advised this is spending authority for federal money because the Department believes the caseloads have exceeded the projected levels.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. COBB moved that HB000240.ALS BE ADOPTED.

EXHIBIT(fcs67a18)

Discussion:

SEN. COBB advised the subcommittee took action in their last meeting to make these appropriations contingent on the cap. Some of this has been moved around to legalize I-149. The subcommittee is asking to remove the requirement.

Vote: Motion carried by voice vote with SEN. KEENAN voting no.

Motion/Vote: SEN. WEINBERG moved that HB000242.ALS BE ADOPTED. Motion carried unanimously by voice vote.

EXHIBIT(fcs67a19)

Motion: SEN. WEINBERG moved that HB000243.ALS BE ADOPTED.

EXHIBIT(fcs67a20)

SEN. WEINBERG advised this was in the original bill and was stripped off in the House. The amendment reinstates a $60,000 general fund appropriation for a tribal peer counseling program.

Discussion:

SEN. ESP asked if this is done in one particular tribe or several tribes. **SEN. WEINBERG** indicated this is a pilot program in one location. The program has sound basis in research and has not been done here before. They would like to try it in one location anticipating it could be successful and grow in the future. **SEN. ESP** asked if they thought of backing money out of the $720,000 a year that is going to the tribes for tobacco prevention. **SEN. WEINBERG** replied, no.

Vote: **Motion carried 12-7 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.**

Motion: **SEN. LIND moved that HB000226.APG BE ADOPTED.**

Discussion:

SEN. LIND withdrew his motion.

Motion: **SEN. COBB moved that HB000244.ALS BE ADOPTED.**

EXHIBIT(fcs67a21)

Discussion:

SEN. COBB advised this amendment strikes the language that is substantive in nature. **Mr. Petesch** had advised that this cannot be in HB 2. Conceptually, the amendment should also say this language should be put in the narrative. The language is about helping people quit smoking.

SEN. ESP asked if this could be done conceptually. **Mr. Schenck** said he would put it in, but it does not have an authority status in the narrative either. He will clarify that it was a vote by the Senate Finance Committee.

SEN. KEENAN said these duties for encouragements could all have a fiscal note. **SEN. COBB** said they asked the Department to come back with ways to help people quit smoking. There was no fiscal impact, so they put it in HB 2. **Mr. Petesch** indicated that language could not be in HB 2. **SEN. COBB** is asking that it be put in the narrative so the Legislature can track this. The quicker people quit smoking, the faster I-149 collapses. **SEN. KEENAN** observed these are all laudable things, and he did not have any problem with them. The language was that the Department should encourage all state departments to incorporate smoking cessation policies including coverage for cessation and nicotine replacement therapies. He asked if that was mandated health care coverage that would take a bill. **SEN. COBB** said it is just to encourage. It does not take a bill, and there is nothing mandated.

Vote: **Motion carried by voice vote.**

{Tape: 6; Side: A}

Motion: **SEN. LIND moved that HB000226.APG BE ADOPTED.**

EXHIBIT(fcs67a22)

Discussion:

SEN. LIND advised this amendment would remove $2 million in general fund from LIEAP.

SEN. RYAN asked what is in the LIEAP fund now. **SEN. LIND** said this would remove $1 million from decision package 3200 leaving $1 million. The subcommittee had other priorities for the money that was originally in the LIEAP program.

SEN. ESP inquired how much is in the base of LIEAP. **Pat Gervais, Legislative Fiscal Division,** responded the base budget for LIEAP is about $11 million in federal grants.

SEN. KEENAN reminded the committee that **REP. ROSIE BUZZAS** had a bill before them recently. In the 25 years that LIEAP has existed, it has been federally funded. This session, they are crossing that threshold and putting general fund money in the LIEAP program.

Vote: Motion carried 15-4 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. BRUEGGEMAN, and SEN. STAPLETON voting no.

Motion: SEN. COBB moved that HB000245.ALS BE ADOPTED.

EXHIBIT(fcs67a23)

Discussion:

SEN. COBB advised this does not add any money; the money is already in HB 2. He thought this would save a couple million dollars general fund over a biennium. It involves increasing the use of services on the reservation in order to get a 100 percent match. As more people come on Medicaid on the reservation, the 100 percent match would save the state money and also increase health care services on the reservations.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. COBB moved that HB000286.ALS BE ADOPTED.

EXHIBIT(fcs67a24)

Discussion:

SEN. COBB explained HB 749 is a bed tax on nursing homes. **Ms. Steinbeck** advised this is an allowable federal reimbursement mechanism. She distributed a flow chart to the committee which used the Montana Developmental Center as an example.

EXHIBIT(fcs67a25)

She explained the state has been active in refinancing, which is trying to find federal money to offset general fund expenses. This reimbursement mechanism was enacted last session by the Legislature to fund the prevention and stabilization account, which still exists and still receives this funding. The Legislature appropriates general fund to pay the nursing home bed tax in HB 749. Quarterly, the nursing care center pays the bed tax to the Department of Revenue. Immediately, the Department of Revenue peels off 30 percent and deposits it back to the general fund. It then forwards 70 percent of the tax into the state special revenue account for the prevention and stabilization fund, where it can be used again to match more federal money. She stressed that this is legal. When the care facility provides Medicaid eligible services, it submits a bill to the federal government to get federal matching funds and claims a 70 percent match. That 70 percent match is then distributed to the general fund by the care facility, making the general fund whole and generating additional funds for use in other programs. She advised that **Chuck Hunter, DPHHS**, helped put this mechanism in place. Because of the federal match, and because of the way it is built and the way it is paid, revenue is generated, the general fund is held harmless by the deposits, and the revenue that has been generated can be used to match and draw down additional federal funds.

SEN. TESTER inquired if HB 749 was the bed tax bill. **Ms. Steinbeck** replied, yes. The amendment adds the additional bed tax to the amount that is already in the budget to pay what is there under the statute now. **SEN. TESTER** said HB 749 has the dollars implemented by the bed tax. This does not address the tax that is accrued and matched in HB 749; that is an entity unto itself. He asked if that is correct. **Ms. Steinbeck** replied the appropriation in HB 749 is the state special revenue paid by nursing home that will allow the senior long-term care to pay for Medicaid nursing home services. The amendment appropriates the general fund for the state nursing care center, which is under the definition of nursing home, to pay the bed tax. **SEN. TESTER** inquired if this amendment is passed if it will have no impact on the general fund. **Ms. Steinbeck** advised that is correct. **SEN. TESTER** wondered if this would affect the potential cap issue. **Ms. Steinbeck** deferred the question to **Mr. Johnson**. **Mr. Johnson** advised it would affect the expenditure limitation. **SEN. TESTER**

stated it affects the expenditure limitation by approximately $45,000 in FY 2006 and $75,000 in FY 2007, or about $120,000. **Mr. Johnson** replied in the affirmative.

Vote: Motion carried 18-1 by voice vote with SEN. STAPLETON voting no.

Motion: SEN. COBB moved that 298.APG BE ADOPTED.

EXHIBIT(fcs67a26)

Discussion:

SEN. COBB explained the amendment cleans up language; they cannot put in HB 2. The Energy Ombudsman Services program was created by taking some of the LIEAP money. He moved conceptually to put this language in the narrative and not in HB 2 itself, so they can remember what they did in committee. It does not add any more money; it just cleans up what **Mr. Petesch** said they cannot put in statute anymore.

Ms. Gervais advised the amendment addresses several issues raised by **Mr. Petesch.** It affects multiple divisions within the agency. **SEN. ESP** asked about putting the language in paragraph 7 of the amendment into the narrative. **Ms. Gervais** replied item 7 at the top of page 2 of the amendment clarifies the language that is in the bill. It would amend the language of the bill to say that funding in TANF Cash Assistance Increase Benefit Level and TANF Reduce Childcare Transfer, which are two line items in the bill, may be used only to increase the monthly cash assistance benefit provided to TANF cash assistance recipients. Language already in the bill continues that it is estimated that each $2.4 million will support an increase of about $50 per month in benefit level. This language supports the action that was taken by the subcommittee. **SEN. ESP** asked about the TANF Cash Assistance Increase Benefit Level. **Ms. Gervais** advised the subcommittee, as **REP. KAUFMANN** indicated, said there were certain things the subcommittee did not want the Department to spend money on; they wanted the Department to use those federal TANF funds for the benefit level instead, rather than for what was included in the Executive budget. That is a line item in the bill that accounts for about $2.5 million of federal TANF funds.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. STAPLETON moved that HB000227.APG BE ADOPTED.

EXHIBIT(fcs67a27)

Discussion:

SEN. STAPLETON advised this amendment would allow up to an 18 percent increase in spending in DPHHS from the 2005 biennium to the 2007 biennium. He noted that Corrections increased 11.7 percent in spending, higher education increased 9.31 percent, and public schools increased 8.05 percent. Human services had far and away the largest increase in spending. This amendment would bring it closer to Governor Schweitzer's budget.

SEN. SCHMIDT asked **REP. KAUFMANN** to comment. **REP. KAUFMANN** urged the committee to resist this amendment. This is a large cut to the Health Resources Division. There were increases in this budget, but, as she explained in her overview, for the most part those increases related to actions by the federal government regarding Medicaid, rate adjustments, etc. She did not think the Department should be punished for those actions by taking $9.5 million from its operating budget.

SEN. LIND asked about the impacts of the changes in the rate. **REP. KAUFMANN** replied there would be $55 million having to do with rate changes for Medicaid, and an additional $35 million for caseload adjustments.

SEN. SCHMIDT inquired how this would affect Children's Mental Health. **REP. KAUFMAN** advised the amendment would allow broad authority for the Department to decide what programs or services to cut. This amendment would delegate quite a bit of authority by making such a large unspecified cut. This amendment does not give any direction about where these need to come from, other than a Division.

SEN. SCHMIDT asked **Mr. Chappuis** about where some of these cuts would be coming from if this amendment passed. **Mr. Chappuis** advised they discussed in the Medicaid Redesign Committee, that they would first look for administrative cuts. There is a point, such as was reached in the last biennium, where they were close to the minimum where they could sustain and manage programs. They would look at what services were the most medically necessary and would follow the principles in SB 41. In addition, they would look at provider rates. The related match makes this a cut of nearly $20 million.

SEN. LIND asked **Ms. Steinbeck** to review the Medicaid eligibility requirements. **Ms. Steinbeck** replied this program contains what is called the State Plan. Those are basic medical services that are thought of as being provided by health insurance, such as physical therapy, speech therapy, and prescription drugs. Montana Medicaid eligibility is at or near federal minimums in almost all aspects, other than the waivers. **SEN. LIND** asked the committee to resist the amendment; the unintended consequences are significant.

SEN. COBB said he would resist the amendment. He acknowledged that people on this committee get frustrated with human services and the budget. When the subcommittee put together this budget, one member wanted to spend $40 million more general fund, another wanted to spend about $50 million, all in different areas. They wanted to fix the waiting lists and everything else. They were not expanding necessary services; they were just going to fix everything for once. The subcommittee overspent the Governor's budget, but they did not fund everything the Department wanted. The Department said they were $2 million short in general fund, and would get fined on January 1 by the federal government because they could only meet four of nine requirements. They would be fined $500,000 for each and would be short $2 million. Next year, the fine doubles. The subcommittee did not give them any money for that; they gave the a few staff back to try to alleviate the fine. The budget office said the Department has to make some savings in Medicaid. Part of the caseload increase is due to senior citizens. Part is due to inflation, people using more services, and the growth rate. He thought the growth rate projections were lower than those for insurance premiums in the next few years, even though caseloads and costs are growing. Medicaid covers the more seriously disabled, and they cost more.

{Tape: 6; Side: B}

SEN. STAPLETON observed that returning HB 2 to where it was 67 days ago is being called a cut. This amendment would still leave this Department above the Executive budget in terms of discretion and general fund. He thought this was supposed to be an education session; education was only increased by 8.05 percent. **SEN. COBB** responded most of the increases in Medicaid and caseload were already part of the Governor's budget. Human services are about 20 percent of the general fund historically. He did not think they could count on I-149 money anymore. If there are more people coming onto the system and the Department is given less money, the Department is mandated to take care of those people and they have to cut somewhere. Most of this is present law adjustment on Medicaid; Montana has not added more eligibility to Medicaid.

SEN. WEINBERG asked that the committee resist the amendment. An analogy was made between funding for human services and funding for education. Education and human services have suffered cuts in the past. With human services it is not that people are helped minimally, they are just not helped. There are waiting lists of hundreds of people who wait for services for years. There are no good statistics to know how many people are not even on waiting lists. This budget is trying to advance the cause of public health in a minimal way. They are not reaching everybody that needs to be reached.

SEN. LIND advised they have the closest to federal minimums, in terms of eligibility criteria for Medicaid, among the states. He asked who is eligible and what individuals receive Medicaid. **Ms. Steinberg** replied able-bodied, able-minded, childless adults below 65 years old are not eligible, no matter how poor or sick they are, until they become so disabled that they meet the federal disability criteria and have income and resources below standards. Children over six in families with incomes at 100 percent of poverty can be eligible; for children under the age of six family income can be 133 percent of poverty. Parents in those same families must have income below 139 percent of poverty. The family may have no more than $3000 in resources, including vehicles, tools, etc. Elderly people must be over the age of 65 years and must also meet income and resources tests to be eligible for Medicaid. Disabled people must meet the federal disability criteria, and must also have income and resources below federal criteria. The disabled and the elderly in nursing homes are among the most costly to insure. There are about 5000 eligible for Medicaid in nursing homes, and they take 30 percent to 40 percent of the total Medicaid budget.

SEN. STAPLETON acknowledged those were all good points, but expressed that this amendment was offered in good faith from someone who sat in the majority on this budget committee and had to reconcile the budget. He pointed out there is a structural imbalance and they are over the spending cap. He thought it would make sense to bring these expenditures down. He said if the amendment did not pass, he would not take it personally or as a repudiation of an ideology. This amendment would bring the budget down to what the Governor offered up 67 days previously. He left the amendment vague to give the Department the discretion to maximize federal dollars. He said the decision is whether to be structurally balanced and to come under the spending cap or not.

<u>Vote</u>: Motion failed 4-14 by roll call vote with SEN. BARKUS, SEN. BRUEGGEMAN, and SEN. STAPLETON voting aye. SEN. BALES voted aye by proxy.

<u>Motion/Vote</u>: SEN. COBB moved to CLOSE SECTION B IN HB 2. Motion carried unanimously by voice vote.

CHAIRMAN COONEY said **SEN. STAPLETON** made a good point. He hoped none of them take this personally, and he thanked the committee for their hard work.

RECESS

Recess: 6:55 P.M.

____
SEN. MIKE COONEY, Chairman

____
PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT(fcs67aad0.TIF)